



David B. Cohen

CITY OF NEWTON, MASSACHUSETTS
Department of Planning and Development
Michael J. Kruse, Director

Telephone
(617)-796-1120
Telefax
(617) 796-1142
E-mail
mkruse@ci.newton.ma.us

Public Hearing Date: July 12, 2005
Land Use Action Date: *To be determined*
Board of Aldermen Action Date: September 19, 2005
90-Day Expiration Date: October 10, 2005

TO: Board of Aldermen

FROM: Michael Kruse, Director of Planning and Development
Nancy Radzevich, Chief Planner
Jean Fulkerson, Principal Planner

DATE: July 8, 2005

SUBJECT: #220-05 McDONALD'S CORPORATION petition a SPECIAL PERMIT and an EXTENSION OF A NON-CONFORMING USE to demolish an existing 3,025 sf building containing a fast food restaurant and replace it with a new 3,716 sf building, including new signage and a waiver from light requirements, at 197 CALIFORNIA STREET, Ward 1, NONANTUM on land known as Sec 11, Blk 4, Lot 6, containing approximately 40,073 sf of land in a district zoned MANUFACTURING.

CC: Mayor David B. Cohen

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information that will be presented at or after the public hearing that the Land Use Committee will consider in its discussion at a subsequent Working Session.

EXECUTIVE SUMMARY

The petitioner is proposing to demolish the existing 3,025 s.f. McDonalds restaurant at 197 California Street and replace it with a new 3,716 s.f. restaurant. The original restaurant was constructed in 1970 and is a legal non-conforming use. The new McDonalds restaurant will be located closer to California Street, and the site will be improved with additional landscaping, pedestrian crossings, and a reconfigure the drive-through area. The petition also includes a new sign program with multiple freestanding and directional signs.

I. ELEMENTS OF THE PETITION

The McDonalds restaurant at 197 California Street was originally constructed in 1970 as a restaurant, a use then permitted as-of-right in a Manufacturing District. Subsequent to 1970, the City adopted changes to the Newton Zoning Ordinance regarding fast-food operations that caused this McDonalds to become a legal non-conforming use. The drive-through, along with a free standing sign and menu board, was approved in 1991 as an extension of a non-conforming use, pursuant to Board Order #397-91 (*ATTACHMENT "A"*). The current proposal is to demolish the existing two-level (basement and first floor) structure, and replace it with a more modern one-floor facility, with an updated drive-through service. The existing restaurant has a ground floor area of 3,025 s.f., providing 48 seats. The new facility will include 70 seats in a one-floor structure of 3,716 s.f. The petitioner also proposes a new package of signage, including a freestanding sign, menu board, directional and pre-sell signs.

The petitioner attended two Development Review Team meetings with staff from the Planning Department, Engineering Division of Public Works, and the Fire Department. In those meetings staff raised concerns with regard to the landscaping, number of seats and size of the restaurant, pedestrian access (to and through the site) and the location of the light poles. *Staff notes that in each case the petitioner responded to the concerns raised by reducing the building size and number of seats in the restaurant, increasing interior landscaping, moving light poles out of the side setbacks, and adding designated pedestrian crosswalks.*

II. ZONING RELIEF BEING SOUGHT

Based on the Chief Zoning Code Official's written determination, dated January 25, 2005 (ATTACHMENT "B"), the petitioner is seeking relief from or approvals through the following sections of the Zoning Ordinance:

- *Section 30-21(b) allows the Board of Aldermen to grant a special permit for the extension of a non-conforming structure/use as long as the change, extension or alteration shall not be substantially more detrimental than the existing non-conformity. The petitioner requests the following exceptions:*
 1. *Section 30-21(b) to extend non-conforming restaurant use and alter structure;*
 2. *Section 30-21(b) to extend non-conforming drive-in fast food service, in a Manufacturing zone and alter structure; and*
 3. *Section 30-15 Table 3, Footnotes 8 &10 to alter location of two rear light poles further from rear lot line while still within 20 ft. setback.*
- *Section 30-19(m) allows the Board of Aldermen to grant a special permit to provisions of this section if it is determined such an exception would be in the public interest. The petitioner requests the following exceptions:*
 1. *Section 30-19(j)(1) to waive 1 ft. candle lighting level; and*
 2. *Section 30-19(j)(1)b) to waive light spillover requirements as to light overflow on California Street.*
- *Section 30-20(l) permits the Board of Aldermen to grant a special permit for a freestanding sign if it is determined that the sign is in the public interest. In addition the sign package requires an amendment to Board Order #397-91. The petitioner also requests the following:*
 1. *Approval of new freestanding sign at front of site, replacing prior sign;*

2. *Approval of free standing menu board sign and sign area to exceed 35 sf;*
 3. *Approval of new freestanding pre-sell sign;*
 4. *Section 30-20(f)(8) Approval of gateway pole and oversize “Drive-Thru” directional sign; and*
 5. *Approval of gateway pole and two side-mounted banner signs, arch logo and promotional sign.*
- *Section 30-24 Special Permit, Approval to amend Board Order #397-91*
 - *Section 30-23 Site Plan, Approval to amend Board Order #397-91*

III. SIGNIFICANT ISSUES FOR CONSIDERATION

In reviewing this petition, the Board of Aldermen should consider the following:

- *Whether the proposed extension/alternation of the non-conforming use is substantially more detrimental than the existing non-conforming use;*
- *Whether the new structure will be compatible with the character of the surrounding neighborhood; and*
- *Whether a waiver of the 1 foot candle lighting requirement for the parking lot and the proposed light “spillover” is appropriate for this site and/or whether they will have any adverse impacts on the surrounding properties; and*
- *Whether the number, location, and size of the proposed standing signs are appropriate for this site.*

IV. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Site

This McDonalds restaurant is located on a 40,073 sq. ft. parcel in Nonantum, within a few blocks of the Town of Watertown border. The subject site is in a Manufacturing Zoning District, as are the lots to the east and west of the McDonalds. The site is improved with an existing 1 story McDonald’s Restaurant, with a drive-through, and is surrounded by a 61 stall parking lot. The site has very limited landscaping around the sides and rear of the parking facility, but is otherwise covered by impervious surfaces. The existing restaurant is set back over 130 ft. from the front property line. As such, the streetscape view of the site is dominated by the parking facility.

B. Neighborhood

This neighborhood is characterized by a land use pattern where single-family uses are side-by-side multi-family, commercial, and industrial uses. The underlying zoning, however, is uniformly Manufacturing and Business 1. The site abuts commercial uses to the east, and a manufacturing use to the west. Behind the McDonalds is Forte Park, which is located in a Public Use District. There is no pedestrian connection between the McDonalds restaurant and the playground. Across the street is a block of two-family dwellings and a mixed used property. These properties are included in a Business 1 District along the south side of California Street from Dalby Street to Los Angeles Street.



Figure 1. Existing Conditions, 197 California Street

V. ANALYSIS

A. Technical Considerations – Section 30-15, Dimensional Controls

The following table compares the existing and proposed site conditions with the technical requirements in a Manufacturing District:

Manufacturing District	Required	Existing	Proposed
Minimum Lot Area	10,000	40,073	No Change
Minimum Lot Frontage	NA	164'	No Change
Minimum Yard			
Front	15'	131.0'	58.0'
Side	8.5'	50.3'	57.2'
Rear	20'	7' (pole), 57' (bldg.) from plans provided in 1983	11.1' (pole), 88.7' (bldg.) Light pole is within Rear setback
Minimum Building Height	24'	1 Story	1 Story
Interior Landscaping	≥5%	2.4%	7.1%
Floor Area Ratio	1.00	.075	.093
Driveway Width	20' Min	24'+	No Change

Based on the plans and supplemental information, the proposed site and structure comply with all the dimensional controls in a Manufacturing District except for the 2 light poles within the rear setback. While the poles are within the required 20 ft setback, they are farther from the rear property than the existing lightpoles, by 4 ft, and therefore, represent an improvement over the existing site plan.

B. Technical Considerations – Section 30-19, Parking Requirements

The following table shows how the proposed parking facility compares the parking requirements in Section 30-19:

Parking Table	Required	Existing	Proposed
Parking Spaces	1 per 3 seats, 1 per 3 employees. 27 Total	61	41
Parking Setbacks			
Front	15	0	15
Side	8.5	8.5	8.5
Rear	10	12.2	12.2
Perimeter Landscaping	5'	0' (front)	8.5' side
Interior Landscaping	≥5%	2.4%	7.1%
Lighting	1 foot candle	Unknown	0.1 foot candle

As noted above, the petitioner is proposing to reduce the number of parking spaces from 61 to 41. Even with the reduction, the site will far exceed the 27 spaces required by the City's Zoning Ordinance, based on the size of the restaurant and number of employees. By reducing the number of spaces, the petitioner was able to add interior landscaping, which does not exist under the current conditions. It is important to note that at least 55 percent of this McDonalds' sales are generated by the drive-through. The site plans also include a bike rack, which will accommodate a minimum of 5 bicycles.

C. Technical Considerations – Section 30-20, Signage

The petitioner is seeking to install a single freestanding entrance sign, as well as a program of 5 additional freestanding signs associated with the drive-through facility. (*SEE ATTACHMENT "C"*). Section 30-20(1) allows a special permit to grant exceptions to the limitations as to "number, size, location, and height." The following table describes the dimensions and location of the various signs.

Signage Package	Permitted under BO#397-91	Permitted under 30-20(1)	Proposed
Freestanding Entrance Sign	4' 2" high x 5' 8" wide; overall ht. of 6' 8"	35 sf total area , less than 10' in any dimension, max. 16 ft. from ground	5.67 ft .wide by 6.83 ft high, 38.75 sf total area
Directional Signs		Not to exceed 3 sf in area	Two at 2 sf each
		Not to exceed 35 sf in area	One at 6.16 sf
Drive Through Gateway		Not to exceed 35 sf in area	11' above pavement with 7.8 ft arm and 6.6 ft. side banner and logo, total area 21.48 sf
Pre-Sell Sign		Not to exceed 35 sf in area	2 ft. high by 5.29 wide, total area 10.8 sf
Menu Board		Not to exceed 35 sf in area	6' 10.5" high by 8' 4" wide and 26.24' deep, approx. 46' 5" sf overall

The proposed monument style freestanding sign will replace the existing freestanding sign approved under BO #397-91 in the same location. It is marginally larger than the original sign. It consists of a lighted red plastic box fixed to a solid “stone” base. It has no message other than the McDonalds “M” logo.



Figure 2. Existing Sign, with Sidewalk Conditions

At appropriate locations on the site the petitioner proposes “Welcome”, “Do Not Enter”, and “Thank You” signs designed to regulate the one-way flow of traffic within the parking lot.

The remaining signs are associated with the drive-through facility. Vehicles are directed to the drive-through entrance via the “Gateway Sign,” with a clearance bar 9 ft above grade and an adjustable break away bang bar that rotates out of the way if hit by a vehicle. Vehicles will then pass a “Pre-Sell” board where the restaurant will advertise special menu features. Finally, vehicles will be presented with the “Menu Board” and the LED customer order stand (which is not considered a sign and is not the subject of this special permit request), and then proceed to one of two pick-up windows. The Pre-Sell, Menu Board, and LED order stand are located in the rear of the property and should not be visible from the street.

The Urban Design and Beautification Commission (UDBC) reviewed the sign package at its June 15, 2005 meeting and approved the freestanding sign at the entrance, the directional signs, the Menu-Board, and the Pre-Sell sign. In its review of the Drive-Through Gateway, the UDBC found the attached McDonalds logo and “Drive-Thru” banner to be redundant and asked that the petitioner remove these elements from the Gateway pole. ***The petitioner has agreed to remove the banner and the logo from the Gateway Pole and is expected to submit revised sign details prior to the Working Session.***

D. Land Use

The existing McDonalds is a legal non-conforming use in a Manufacturing District. The applicant is not proposing to change the use of the site, only to alter and extend the existing use. Where the existing building is 3,025 sq.ft. on the ground floor (the building includes a basement) the new restaurant will be 3,716 sq.ft. on a single level. Thus the non-conforming use will be extended by just under 700 sq.ft. The Planning Department believes that the reconstruction of the McDonalds, with the slight increase in the ground floor area, will not be substantially more detrimental than the existing use because the net increase in area is

minimal and because of the related site improvements that will be done in conjunction with the reconstruction of the structure.

E. Building Design

The elevations submitted by the petitioner were prepared by a corporate architect from McDonalds headquarters in Oak Brook, Illinois. It is a standard design indistinguishable from any McDonalds elsewhere in the country. In recent years McDonalds has demonstrated a willingness to incorporate regional details and design elements into its buildings and should be encouraged to do the same on California Street.

In the Development Review Team meetings Planning Department staff were shown photographs of several available options for the elevations, but these options are not evident in this petition. Prior to the Working Session the petitioner should prepare new elevations for the building, taking care to provide a design that is more in keeping with the region. At a minimum the architecture should reflect consideration of the residential uses across the street.

F. Lighting

The lighting plan submitted by the petitioner shows a range of candle foot readings from a high of 8.3 near the front door of the restaurant down to 0.0 on some portions of the parking lot. Section 3-019(m) allows for a special permit to waive the 1 ft candle light minimum for parking lots required under Section 30-19(j)(l). The lighting plan also indicates some spillage of light onto California Street. Most, but not all of the light poles have both back and side shields.

Because there are two-family residences located across California Street from the site, the Planning Department recommends that the petitioner prepare a new lighting plan in advance of the Working Session that includes a more even distribution of lighting levels on the site, with minimal or no spillage onto California Street. The Planning Department supports the request for a waiver from the 1 ft light candle requirement, but not a waiver from the prohibition on light spillage.

G. Other Departmental Reviews

The Associate City Engineer, in his memorandum dated June 30, 2005, (**ATTACHMENT "D"**) commented on drainage, water, sewer, access and circulation, and demolition. Concerns that may require changes to the submitted plans include detailing the nature of an existing drain pipe, separation of domestic and sprinkler water lines, replacing domestic water lines from the main, and renewing sewer service from the main. In addition, the Associate City Engineer is requesting the installation of two new pedestrian curb cuts on California Street, and improvements to the existing curb cuts on Allison Street.

The City Traffic Engineer is expected to complete his review on the proposed site plans and the submitted traffic/parking study prior to the public hearing.

The Fire Department reviewed the site plans and reports that the proposed McDonalds restaurant on California Street meets with the Fire Department approval for site access and water availability. Fire Department Staff will be reviewing the plans relative to construction

and other Fire Prevention Code matters during the building permit process. *The Planning Department expects that the Committee will have a written memorandum prior to the public hearing.*

H. Relevant Site Plan Approval Criteria, Sec.30-23

1. Convenience and safety of vehicular and pedestrian movement within the site

Circulation on the site will be one-way with the drive-through traffic moving counter clockwise around the rear of the building. The petitioner's plan is to move the building forward on the lot while maintaining the drive-through queue in the same location. This should be an improvement in terms of circulation and pedestrian safety in the parking lot. As customers exit the store, they will no longer be forced to walk between cars waiting in the queue. In addition, the new hatched pedestrian crosswalks should help to increase awareness of the drivers to the pedestrians who may be entering or exiting the building. The drive-through queue should be able to accommodate up to 12 vehicles before conflicting with pedestrian walkways leading to the main side entrance.

The petitioner's site plans include turning plans for both fire vehicle access and delivery trucks. The petitioner has adequately shown that the site is accessible for both purposes. The drive-through queue should not interfere with access by the Fire Department.

It is worth noting that the operation of the existing site, specifically related to the drive-through, was studied in July 2004 by the City Traffic Engineer in response to a request by the Land Use Committee for a survey of existing McDonalds restaurants regarding a separate special permit petition. At the time, the City Traffic Engineer noted that during the lunch period from 12:30 to 1:30 p.m., the maximum number of cars in the queue at any time was 7, and the total number of cars passing through in one hour was approximately 90. The City Traffic Engineer also observed that there was not a steady stream of cars for the entire hour, and therefore the maximum capacity would be greater than the observed volume of cars. The estimated capacity was 110-120 vehicles per hour, with a maximum capacity of 12 cars in the queue. The petitioner is not proposing to reduce the length of the queue.

2. Adequacy of methods for disposal of sewage, refuse and other wastes and the method of regulating surface water drainage

There is one dumpster located in the northeast corner of the property. The submitted plans indicate the dumpster will be screened. There do not appear to be designated areas for separating recycled materials and other refuse on the property. ***Prior to the Working Session, the petitioner should clarify their proposed means to adequately dispose of all wastes, including recycled materials.***

3. Screening of parking areas and structures

Where the existing site plan features a building set back from the street 137 feet and surrounded completely by asphalt, with little landscaping, the proposed site plan includes both interior landscaped islands and landscape areas along California Street. Section 30-19 (I)(2) requires that an area equivalent to 5 percent of the parking facility must be landscaped. The landscape plan provided by the petitioner indicates interior

landscaping totaling 7 percent, consisting of planted traffic islands, landscaping along the front streetscape, and two planting islands directly in front and behind the building. All of the additional landscaping should vastly improve the overall appearance of the property, particularly when viewed from the residences across California Street.

I. Relevant Special Permit Criteria, Sec.30-24

1. The specific site is an appropriate location for such use/structure

The restaurant use has been operating at this location in some form since 1970. The changes proposed by the petitioner should be an improvement over the current situation and should allow the restaurant use to operate better in the future.

2. The use as developed and operated will not adversely affect the neighborhood

The hours of operation of the existing McDonalds restaurant are 6:00 a.m to midnight. After the reconstruction, the petitioner is proposing to maintain the same hours. The location of the menu-board at the rear of the property should help to keep noise levels to a minimum. Lowering the lighting levels should also be a benefit to the surrounding neighborhood. Finally, if the petitioner prepares new elevations for the building, providing a design that is more in keeping with this area, the architecture should be more compatible with the neighborhood. Moving the building closer to California Street and the incorporation of the landscape areas in front of the building and along California Street should significantly improve the streetscape.

3. There will be no nuisance or serious hazard to vehicles or pedestrians

The petitioner has taken appropriate steps to minimize conflicts between vehicles and pedestrians. As discussed earlier, repairs to the sidewalk, new crosswalks, and the circulation system are all designed to prevent hazards to vehicles and pedestrians. Although a number of standing signs are proposed, the Planning Department does not believe that any of the signage will interfere with sightlines.

4. Access to the site over streets is appropriate for the type(s) and numbers of vehicles involved.

The petitioner is not expecting any significant increase in usage of the site as a result of the reconstruction of the McDonalds restaurant. The City's Transportation Planner finds that the assumptions made in the petitioner's traffic and parking operations memo were reasonable, and the consultant responded to all the elements requested. ***The City Traffic Engineer is expected to provide additional comments on the traffic/parking study.***

VI. SUMMARY

The petitioner is requesting a special permit to extend/alter an existing non-conforming use to allow for the demolition and reconstruction of the McDonalds restaurant at 197 California Street. The slight increase in the floor area of the restaurant should have no adverse effects on the surrounding neighborhood.

The submitted site plan includes a number of improvements. The relocation of the building closer

to California Street combined with the increased landscaping throughout the site and along California Street, will visibly improve the site, particularly when viewed by the residents across California Street. Changes to the building footprint and parking facility should provide for better fire access and circulation of delivery vehicles. In addition, the increased signage along with the pavement crosswalks should help to improve site circulation for both vehicles and pedestrians.

Although the site plan includes a number of improvements, the Planning Department is concerned that variations on the restaurant's architectural design, similar to what was presented at the Development Review Team Meeting, were not incorporated into the final petition. The Planning Department believes that with some slight changes to the elevations, the building will better fit in with the character of the surrounding area.

The Planning Department recommends that the petitioner provide the following additional information prior to the Working Session.

- 1. Revised set of architectural plans providing a design that is more in keeping with the region and reflecting the design features shown to staff at the Development Review Team meetings.*
- 2. Revised sign program that removes the banner and the logo from the Gateway Pole.*
- 3. Revised lighting plan showing a more even distribution of lighting levels on the site, with minimal or no spillage onto California Street.*
- 4. Statement clarifying the proposed means to adequately dispose of all wastes, including recycled materials.*

ATTACHMENTS

ATTACHMENT A: Board Order #397-91

ATTACHMENT B: Zoning Review Memorandum,

ATTACHMENT C: Sign Package

ATTACHMENT D: Engineering Division Memo